

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2031 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

PARMAR JERAM NATHA

Versus

STATE OF GUJARAT

Appearance:

MR DM THAKKAR for Petitioner

MR NIGAM SHUKLA,AGP, for Respondent No. 1, 2

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 25/06/97

ORAL JUDGEMENT

Rule. Mr. Nigam Shukla, learned AGP waives service of the Rule on behalf of the respondents. At the request of the learned Advocates, this petition is taken up for final hearing to-day.

The petitioner, by way of this petition, has challenged the orders at Annexures "A" and "B" to the petition confiscating 5952 kgs of peanuts valued at

Rs.55053/-. The main allegation made in the show cause notice issued to the petitioner is to the effect that though the petitioner sent two consignments of peanuts in two different trucks and under two different gate passes, both the gate passes bore one and the same number i.e. 110. The other allegations made in the show cause notice are trifling and technical too.

The petitioner in his explanation has stated that due to bonafide mistake instead of mentioning two separate numbers on the two gate passes, only one number was written. This was not accepted by the authorities and, therefore, the orders, which are impugned in the present petition, came to be passed.

Having heard the learned Advocates and having perused the record, I am of the opinion that there is an obvious mistake on the part of the petitioner in mentioning one number on two different gate passes. There is no dispute to the fact that the goods in question were sent to two different parties under two separate bills and in two separate trucks and under two separate gate passes. The only mistake committed by the petitioner was that instead of mentioning two separate numbers i.e. 110 and 111, he mentioned one and the same number i.e. 110 on both the gate passes. Both the aforesaid transactions took place within an hour only. As far as the first transaction is concerned, the gate pass bears number 110. The petitioner, therefore, could have and ought to have given number 111 to the subsequent gate pass. However, by mistake, which the petitioner has admitted, he had given the same number on both the gate passes. In absence of any allegation regarding mens rea in the show cause notice, the authorities have wrongly assumed that the petitioner is indulging in black-money. Since I am prepared to accept the explanation tendered by the petitioner, which is more plausible, the orders at Annexures "A" and "B" passed by the respondents are liable to be quashed and set aside.

In the result, the petition is allowed. The impugned orders at Annexures "A" and "B" are quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

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